

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2001-0126-011-004

vs.

Linnea Soderstrom, LPN, Lic. No. E13524
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges dated March 26, 2001. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Linnea Soderstrom (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On April 5, 2001, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated April 4, 2001, scheduling a hearing for April 18, 2001. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Summary Suspension Order, Notice of Hearing and Statement of Charges were served on respondent by State Marshal on April 10, 2001.

The hearing was continued at respondent's request. The hearing was rescheduled and took place on December 5, 2001, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent filed a written Answer to the Statement of Charges. Resp. Exh. A.

Respondent was present during the hearing and was represented by counsel. Transcript, December 5, 2001, p. 2.

During the hearing, the Department, without objection from respondent, orally amended the Statement of Charges by adding "Dilaudid" to paragraph 5 and by adding "and/or alcohol" to paragraph 6. Transcript, pp. 8, 52-53.

During the hearing, respondent orally amended the answer to the Statement of Charges by admitting paragraph two in its entirety. Transcript, p. 8.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number E13524 on March 21, 1973. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.2-A; Resp. Exh. A.
2. On January 19, 2001, while respondent was working at Kimberly Hall North, Windsor, Connecticut, respondent suffered a physical illness that completely incapacitated her from performing her duties. The etiology and nature of said illness remains undiagnosed and untreated and may recur while respondent is working Dept. Exh.2; Transcript pp. 8-11
3. Respondent became completely incapacitated from performing her duties after exiting the room of a patient to whom respondent was scheduled to administer the controlled substance Dilaudid. Dept. Exh. 2-B.
4. On January 19, 2001, while respondent was working at Kimberly Hall North, respondent placed and kept a used, uncapped syringe of Dilaudid in the pocket of her lab coat instead of disposing of it in a sharps container that was on her medication cart. Dept. Exh. 2-B; Resp. Exh. A; Transcript, pp. 21-22.
5. Respondent testified that she has a history of alcohol abuse. On the evening prior to January 19, 2001, respondent drank to the point passing out. Respondent further testified that she may have ingested the controlled substances Tylenol #4 or Percocet when she was drinking, and ingested the controlled substance Xanax prior to reporting to work on January 19, 2001. Transcript, pp. 30, 38, 41, 42.

6. A preponderance of the evidence establishes that respondent injected herself with Dilaudid from the uncapped syringe which was found in the pocket of her lab coat. Transcript, December 5, 2001, p. 41.
7. A preponderance of the evidence establishes that respondent's consumption of alcohol contributed to her becoming incapacitated while at work on January 19, 2001. Transcript, p. 30.
8. Subsequent to becoming incapacitated, respondent was transported to the emergency room at Saint Francis Hospital and Medical Center, Hartford, Connecticut. Laboratory tests performed at the hospital were positive for barbiturates, benzodiazepines, alcohol and opiates. Resp. Exh. F.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Linnea Soderstrom held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (3) physical illness or loss of motor skill, including but not limited to deterioration through the aging process. . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . .

The **FIRST COUNT PARAGRAPH 2** of the Statement of Charges alleges that on January 19, 2001, while working as a licensed practical nurse at Kimberly Hall North, respondent suffered a physical illness that completely incapacitated her from performing her duties. The etiology and nature of said illness remains undiagnosed and untreated and may recur while respondent is working.

Respondent admits this charge. Transcript, pp. 8, 9.

Based on its findings and respondent's admission, the Board concludes that respondent's conduct as alleged in the First Count Paragraph 2 of the Statement of Charges is proven by a preponderance of the evidence. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(3) and 19a-17.

The **SECOND COUNT PARAGRAPH 5** of the Statement of Charges as amended alleges that on January 19, 2001, while working at Kimberly Hall North, respondent diverted for her own use the controlled substance Dilaudid prescribed for a patient.

Respondent denies this charge. Answer Resp. Exh. A.

The **SECOND COUNT PARAGRAPH 6** of the Statement of Charges as amended alleges that on January 19, 2001, while working at Kimberly Hall North, respondent abused or used controlled substances and/or alcohol, including but not limited to Dilaudid, to excess.

Respondent denies this charge. Answer Resp. Exh. A.

Based on its findings, the Board concludes that respondent's conduct as alleged in the Second Count Paragraphs 5 and 6 of the Statement of Charges is proven by a preponderance of the evidence. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(5) and 19a-17.

The **THIRD COUNT PARAGRAPH 9** of the Statement of Charges alleges that on January 19, 2001, while working at Kimberly Hall North, respondent placed and kept a used, uncapped needle in the pocket of her lab coat instead of disposing of it in a sharps container that was on her medication cart.

Respondent admits these charges. Answer Resp. Exh. A.

Based on its findings and respondent's admission, the Board concludes that respondent's conduct as alleged in the Third Count Paragraph 9 of the Statement of Charges is proven by a preponderance of the evidence. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2) and 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for the First Count Paragraph 2 of the Statement of Charges, respondent's licensed practical nurse license, number E13524, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.
2. That for the Second Count Paragraphs 5 and 6 of the Statement of Charges, as amended, respondent's licensed practical nurse license, number E13524, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.
3. That for the Third Count Paragraph 9 of the Statement of Charges, respondent's licensed practical nurse license, number E13524, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Linnea Soderstrom, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 3rd day of April 2002.

BOARD OF EXAMINERS FOR NURSING

By Pete Cag APRN